IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1270 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

G S R T C

Versus

LAKHHABHAI V RAVALIA

Appearance:

1. Special Civil Application No. 1270 of 1989

MR HARDIK C RAWAL for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 31/08/2001

ORAL JUDGEMENT

1. By this petition under Article 227 of the Constitution, the petitioner-Corporation has challenged the award of the Labour Court, Rajkot in Reference (LCR) No.1401/87 whereby the respondent was directed to be

included in the waiting list of conductors and ordered to be given work as and when necessity arose. After such order dated 26.8.1988, this petition was presented and admitted after hearing on 17.12.1990 when, by way of interim relief, it was ordered that continuation of the name of the respondent on the list of badli workers should be subject to the result of this petition.

2. Going through the impugned award, it is clear that the respondent was employed as and when his services were required. During such service, the respondent was alleged to have committed serious misconduct and on that basis his name was removed from the list of badli workers. After issuance of a show cause notice in respect of the alleged misconduct and the reply to the same by the respondent, an order discontinuing his name from the list of badli workers was straightaway issued. Taking note of these facts and recording a finding of fact that the charges were disputed by the respondent and no opportunity of being heard was given to the respondent, the Labour Court had passed the impugned order. The respondent was not awarded any backwages in view of the fact that he was only a badli worker to whom the work was given only when regular staff was on leave.

3. It is well-settled by Division Bench judgment of this Court in the case of the petitioner itself that the petitioner-Corporation was required to follow the rules of natural justice before arriving at the conclusion that a badli worker had committed serious misconduct [see GSRTC v. Chandulal G. Rasadiya 1993 (2) GLH 204].

4. In view of the facts and circumstances as above, there is no substance in the petition and, therefore, the same is dismissed with no order as to costs. Rule is discharged.

Sd/-

31.8.2001 (D.H.Waghela, J.)

(KMG Thilake)